



Senate

General Assembly

File No. 187

February Session, 2004

Substitute Senate Bill No. 399

Senate, March 23, 2004

The Committee on General Law reported through SEN. COLAPIETRO of the 31st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING INTRODUCTORY RATE OFFERS AND
AUTOMATIC RENEWAL OF CONSUMER CONTRACTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 42-126b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2004*):

3 (a) No person, firm, partnership, association or corporation, or agent
4 or employee thereof, shall, in any manner, or by any means, offer for
5 sale goods, wares or merchandise, where the offer includes the
6 voluntary and unsolicited sending of goods, wares or merchandise not
7 actually ordered or requested by the recipient, either orally or in
8 writing. The receipt of any such unsolicited goods, wares or
9 merchandise shall for all purposes be deemed an unconditional gift to
10 the recipient who may use or dispose of the same in any manner [he]
11 such recipient sees fit without any obligation on [his] such recipient's
12 part to the sender.

13 (b) Any person, firm, partnership, association or corporation that
14 sells or offers to sell any products or services used primarily for
15 personal, family or household purposes pursuant to a trial offer or at
16 an introductory rate that will change at the end of the introductory rate
17 period, shall provide the recipient of such products or services with
18 clear and conspicuous written notice that the recipient may cancel such
19 products or services upon the expiration of such trial offer or
20 introductory rate period. Such notice shall include the procedure for
21 such cancellation and shall be provided with any written promotional
22 material for such products or services furnished to the recipient before
23 the start of the trial offer or the introductory rate period or with the
24 initial delivery of such products or services to the recipient. Any such
25 products or services furnished to the recipient after the expiration of
26 such trial offer or introductory rate period, where such trial offer or
27 introductory rate period is cancelled or not otherwise renewed or
28 continued by the recipient, shall be deemed an unconditional gift
29 under subsection (a) of this section. The provisions of this subsection
30 shall not apply to (1) any trial offer or introductory rate period
31 provided by a public service company, as defined in section 16-1, as
32 amended, an affiliate or subsidiary of such public service company, or
33 any certified telecommunications provider, as defined in section 16-1,
34 as amended, to any consumer with whom such public service
35 company, affiliate or subsidiary, or certified telecommunications
36 provider has an established and ongoing business relationship,
37 provided such public service company, affiliate or subsidiary, or
38 certified telecommunications provider shall inform such consumer of
39 the procedure to cancel such trial offer [, and] or to cancel after the
40 expiration of the introductory rate period, (2) any transaction
41 involving the use of a negative option plan that is governed by 16 CFR
42 Part 425, and (3) a contract subject to the provisions of sections 36a-675
43 to 36a-685, inclusive.

44 (c) No person, firm, partnership, association or corporation shall sell
45 or offer to sell any products or services used primarily for personal,
46 family or household use for a period of time exceeding twelve months
47 pursuant to a written contract. No contract for the sale of such

48 products or services shall provide for the automatic renewal of the
49 contract for more than thirty-one days for each renewal.

50 (d) The provisions of this section shall not apply to any banking,
51 insurance or securities product or service, the provision of which is
52 subject to regulation or licensing by the state or a federal agency.

53 [(c)] (e) A violation of any provision of this section shall be deemed
54 an unfair or deceptive trade practice under subsection (a) of section 42-
55 110b.

This act shall take effect as follows:	
Section 1	October 1, 2004

GL *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Consumer Protection, Dept.	GF - None	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill requires introductory rate offers and automatic renewal of consumer contracts meet certain requirements. The bill has no fiscal impact on the Department of Consumer Protection.

OLR Bill Analysis

sSB 399

***AN ACT CONCERNING INTRODUCTORY RATE OFFERS AND
AUTOMATIC RENEWAL OF CONSUMER CONTRACTS*****SUMMARY:**

This bill prohibits anyone from selling, or offering to sell, consumer goods or services (those meant for personal, family, or household use) under a written contract lasting longer than 12 months. It also prohibits contracts for these goods and services from providing for automatic renewal for more than 31 days at each renewal.

It also (1) requires offers made at an introductory rate to make the same disclosures required of trial offers; (2) limits the application of the trial offer law to consumer goods; (3) exempts contracts subject to the state's Truth-in-Lending Act from the disclosure requirements; and (4) exempts the sale of banking, insurance, and securities products and services from the law on trial offers and the bill's provisions if the provision of the goods or services is subject to regulation or licensing by the state or a federal agency.

A violation of the bill's requirements is deemed to be an unfair trade practice.

EFFECTIVE DATE: October 1, 2004

OFFERS MADE AT INTRODUCTORY RATES

The bill requires anyone who sells or offers to sell goods or services at an introductory rate that will change at the end of the introductory period to provide a clear and conspicuous written notice informing the purchaser that he can cancel at the end of the introductory period. The notice must include the cancellation procedure. The bill requires a seller to give the notice to the purchaser with (1) any written promotional material provided before the start of the introductory period or (2) the initial delivery. The bill states that goods or services provided after the end of the introductory period and after the contract has been cancelled or not renewed are deemed an unconditional gift.

EXEMPTIONS

The bill exempts from the introductory rate disclosure requirements, (1) transactions involving negative option plans governed by federal regulations and (2) introductory rate offers by utilities, their affiliates and subsidiaries, and intrastate communications providers that have an established and ongoing relationship with a consumer. But it requires these companies to inform a purchaser of hour to cancel. The law already exempts these transactions and companies from the trial offer law.

BACKGROUND

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the commissioner of the Department of Agriculture and Consumer Protection to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. The act also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

Connecticut's Truth-in-Lending Act

The act requires lenders to fully disclose the terms of credit being extended. Disclosure is meant to (1) protect consumers from becoming unknowingly obligated to pay hidden and unreasonable charges and (2) permit them to meaningfully compare terms of credit extended by different lenders.

Negative Option Plans

A “negative option plan” is automatically renewed unless the consumer exercises his option to terminate it. Federal regulations require negative option sellers to (1) clearly and conspicuously disclose the material terms of the plan in promotional material and (2) mail announcements identifying the merchandise in time for the subscriber

to reject the selection. Failure to do so is an unfair trade practice. Federal regulations specify the material terms that must be disclosed and require the announcements to clearly identify the merchandise and rejection procedure (16 CFR § 425.1).

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 19 Nay 0